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Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The International Community Must Respond Immediately to the Continuing Impunity and Humanitarian Crisis in Gaza

1. Introduction

Human Rights Now, a Tokyo-based international human rights NGO, continues to support the findings and recommendations of the United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict (hereinafter "the Commission") in its 14 June 2015 report. The report documented indiscriminate attacks against Gazans during the 2014 conflict, killing over a thousand civilians. The conflict also created a humanitarian crisis in Gaza by destroying critical infrastructure, including schools, medical facilities, and over 17,000 houses.

Since the report's publication, the crisis has only worsened. Perpetrators of indiscriminate attacks on Gazans have not been prosecuted, even as Israeli forces continue disproportionate and indiscriminate attacks in Gaza, and destroyed facilities and houses have not been timely repaired due to a blockade of Gaza by Israel. The international community should take immediate action to end the humanitarian crisis and impunity for human rights violations in Gaza and ensure that such rights violations do not continue.

2. Continuing Impunity for Indiscriminate Attacks in Gaza and Continuing Attacks

The Commission reported that the Gaza conflict saw serious violations of international humanitarian and human rights violations caused by both parties, some of which may constitute war crimes.[1] It observed that the Israeli military (IDF) killed 1462 Palestinian civilians, including 299 women and 551 children, and its attacks on residential buildings, in populated areas, and on UNRWA schools sheltering citizens raised questions about whether the IDF violated laws of war.[2] The Commission concluded by admonishing that "[t]hose responsible for suspected violations of international law at all levels of the political and military establishments must be brought to justice."[3] In spite of this, Israel's military advocate general opened investigations for only ten incidents, a number of which closed without prosecutions, even for incidents with evidence cited by the Commission.[4] Israel also impeded prosecutions, for example by barring Gazans from testifying in court about illegal killings of their relatives on vague "security grounds."[5] In the end, only three soldiers were indicted on charges of looting.[6] The most serious allegations remain without prosecution.

Following the International Criminal Court's (ICC) acceptance of Palestine as a State Party eligible to declare *ad hoc* ICC jurisdiction, the ICC's Office of the Prosecutor began an examination on 16 January 2015 on whether to begin investigations for prosecutable crimes from the 2014 Gaza conflict. In June 2015, Israel argued to the prosecutor that it did not have authority to hear Palestinian complaints.[7] However, on 12 November 2015, the prosecutor announced that it was continuing its investigation "in order to establish whether there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been or are being committed."[8] Israel has also impeded the work of the Human Rights Council's Special Procedures. On 4 January 2016, Makarim Wibisono, the Special Rapporteur on the situation of human rights in the Palestinian territories announced his resignation effective 31 March 2016 due to Israel's failure to grant him access to occupied Palestinian territories.[9]

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[1] A/HRC/29/CRP.4, para. 668.
[2] Id., paras. 574, 671, 446.
[3] Id., para. 664.
[4] https://www.hrw.org/world-report/2016/country-chapters/israel/palestine; http://www.timesofisrael.com/soldiers-indicted-for-looting-during-gaza-war/.
[5] Id.
[6] Id.
[7] http://www.haaretz.com/israel-news/.premium-1.665172.
[8] ICC Office of the Prosecutor, *Report on Preliminary Examination Activities* (2015), para. 76.
[9] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16922

As these accountability mechanisms have failed, stalled, or been disrupted, Israel has continued disproportionate bombings and military incursions into Gaza. Israel conducted more than 50 military incursions in 2015 by November 23, which have continued into 2016.[10] Israel continues to use live fire against demonstrators in or near the Israel border and fishermen fishing beyond six miles from the Gazan coast. Since the 2014 conflict ended, over 20 Gazans have been killed and more than 100 injured by border-fire and air strikes.[11]

3. Continuing Delays in Reconstruction and Development of Gaza

The 2014 Gaza conflict destroyed or significantly damaged over 17,000 houses, leaving nearly 100,000 homeless or displaced.[12] Israel has also maintained a blockade of Gaza since 2006, restricting incoming goods to less than half pre-closure levels, and Egypt on goods since October 2014. Both restrict building materials necessary for reconstruction.[13] From the August 2014 ceasefire until September 2015, only one million tons of construction material entered Gaza, only 9% of the amount necessary for reconstruction.[14] Shelter Cluster Palestine estimated reconstruction from the 2014 conflict would take 17 years at current rates of material entry.[15] Gazan export goods are also highly restricted, which has contributed to Gaza's economic decay.[16]

These border restrictions have aggravated Gaza's humanitarian crisis. The NGO Gisha reported that more than 70% of Gazans rely on humanitarian assistance and 57% suffer from food insecurity, and the World Bank reported 40% unemployment in Gaza and nearly 60% unemployment among young people.[17] Almost 200 schools have been forced to provide double-shifts to cope with facility deficiencies.[18]

In June 2015, a decision was made with the reconstruction agency UNRWA to assist reconstruction, and import restrictions on building materials were slightly eased, but this remains insufficient. On 22 October 2015, Gaza made news as the first refugee house was rebuilt, but more than 9,000 destroyed refugee houses remain and more than 13,000 Gazan refugees continue to be displaced.[19] The problem was summed up by UNRWA spokesperson Christopher Gunness, "The fact that just one totally destroyed house has been rebuilt in the 13 months since the Gaza conflict ended is a sad commentary in and of itself."[20] He cited a severe lack of funds and a need for "complete freedom of access" as the limiting factors for reconstruction work.[21] While international donors pledged $5.4bn at the Cairo conference for Gaza, by September 2015 only 35% of pledges had been disbursed, and of that only 13% represented new pledges for reconstruction.[22]

The border restrictions also extend to a 300m zone Israel has declared along Gaza's northern and eastern borders, amounting to 17% of Gaza's entire territory, which Israel enforces with live fire.[23] Israel has also resorted to spraying toxic herbicides to destroy Palestinian crops in this zone, which in practice extends to more than 500m from the border, crippling farmers' ability to make a living.[24] In December 2015, OHCHR reported on punitive house demolitions by Israeli forces, which the Special Rapporteur on the right to adequate housing, Leilani Farha, called "a form of collective

[10] HRW, *supra*, n. 4; Times of Israel, "Israeli fighter jets strike Gaza targets following rocket fire," 2 Jan 2016.
[11] Id.
[12] http://www.ochaopt.org/documents/press_release_7-7-2015.pdf
[13] http://features.gisha.org/ten-years-later.
[14] Id.
[15] http://shelterpalestine.org/Upload/Doc/741ec903-0c96-47fa-93ee-e320417e7dc4.pdf
[16] Gisha, *supra*, n. 13.
[17] Id.
[18] http://www.unrwa.org/newsroom/emergency-reports/gaza-situation-report-109
[19] http://www.aljazeera.com/news/2015/10/gaza-home-rebuilt-2014-israeli-war-151022143935336.html
[20] Id.
[21] Id. ("We need money, but we also need complete freedom of access and we need it immediately.")
[22] http://www.worldbank.org/en/programs/rebuilding-gaza-donor-pledges;
http://www.haaretz.com/st/c/prod/eng/2015/year-to-gaza-war/gaza-aid/
[23] http://gisha.org/en-blog/2011/11/14/physical-control-of-the-gaza-strip/
[24] http://www.aljazeera.com/news/2016/01/israel-spraying-toxins-palestinian-crops-gaza-160114063046813.html.

punishment."[25] Continued bombings of infrastructure facilities, such as Israel's bombing in January 2016 of Gaza's largest agricultural research station, also hamper Gaza's ability to rebuild its economy.[26]

4. Recommendations

(1) HRN calls upon the government of Israel to respect and ensure compliance with international human rights and humanitarian law, especially with regard to:
    1. Cease all violations of international humanitarian and human rights law in occupied Palestinian territory;
    2. Immediately and unconditionally lift the blockade against Gaza to facilitate the reconstruction of destroyed buildings and infrastructure;
    3. Cooperate with the ICC's examination and any future criminal investigations, requests by the Special Rapporteur on the situation of human rights in the Palestinian territories for access to Palestinian territory, and all other efforts to achieve justice and accountability over all acts violating international law in the occupied Palestinian territory, including the violations committed during recent Gaza conflict.
(2) HRN calls upon the State of Palestine:
    1. To make an effort to investigate alleged violations of human rights and humanitarian law against Israel civilians during the recent Gaza conflict.
(3) HRN calls upon the international community:
    1. To use its influence to promote compliance with human rights and humanitarian law obligations in the occupied Palestinian territory and Israel;
    2. To support efforts for justice and accountability with regard to the human rights violations in the Palestinian occupied territory;
    3. Increase its efforts to support the reconstruction of Gaza. In particular, it urges donors to fully provide the financial means they pledged at the Cairo Conference.
(4) HRN calls upon the ICC prosecutor to accelerate its preliminary examination on Gaza and to immediately start criminal investigations.
(5) HRN calls upon the UN Human Rights Council to set up effective mechanisms to ensure accountability over the alleged violations as well as the implementation of all UN recommendations on the State of Israel in relation to the human rights situation of people in the occupied Palestine territory.

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[25] http://www.ohchr.org/EN/NewsEvents/Pages/PunitivedemolitionsinOPT.aspx
[26] Aldabbour, *supra*, n. 24.